

ENTERED

December 08, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HUMBERTO ROSALES CRUZ,	§	
	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO. 7:20-cv-305
	§	
BOBBY LUMPKIN,	§	
	§	
Respondent.	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Petitioner Humberto Rosales Cruz's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254, which had been referred to the Magistrate Court for a report and recommendation. On August 2, 2021, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's motion for summary judgment be granted, that Petitioner's § 2254 habeas petition be denied, that Petitioner be denied a certificate of appealability, and that this action be dismissed.¹ On September 9, 2021, this Court issued an order granting Petitioner's request for an extension of time to file objections to the Magistrate Court's Report and Recommendation.² However, the time for filing objections has passed and no objections have been filed.³

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.⁴ Finding no clear error, the Court adopts the Report and

¹ Dkt. No. 31.

² Dkt. No. 41.

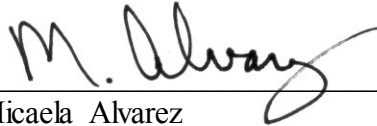
³ Petitioner has filed several duplicative letters/briefs with the Court (Dkt. Nos. 45-51). However, none of these documents are actual objections and none of them appear to make sense.

⁴ As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Douglas v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)

Recommendation in its entirety. Accordingly, it is hereby ORDERED that Respondent's Motion for Summary Judgment is GRANTED, that Petitioner's Petition for Writ of Habeas Corpus Pursuant to § 2254 is DENIED, that Petitioner is denied a certificate of appealability, and that this action is DISMISSED.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 8th day of December, 2021.

A handwritten signature in black ink, appearing to read "M. Alvarez", is written over a horizontal line.

Micaela Alvarez
United States District Judge

(quoting FED. R. CIV. P. 72(b) advisory committee's note (1983)) *superseded by statute on other grounds by* 28 U.S.C. § 636(b)(1), *as stated in* ACS Recovery Servs., Inc. v. Griffin, No. 11-40446, 2012 WL 1071216, at *7 n.5 (5th Cir. Apr. 2, 2012).